

### **REMARKS**

Claims 1-62 are currently pending in the subject application and are presently under consideration. Claims 1, 4, 11, 13, 19, 26, 27, 35, 57 and 58 have been amended as shown on pp. 2-10 of the Reply. Claims 2, 28 and 29 have been cancelled and the limitations previously recited therein have been incorporated into claims 1 and 27 respectively. Applicant's representative thanks the Examiner for the courtesies extended during the telephone interview on June 26, 2007. The below comments present in greater detail distinctive features of applicant's claimed invention over the cited references conveyed to the Examiner during the discussion. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

#### **I. Rejection of Claim 56 Under 35 U.S.C §112**

Claim 56 stands rejected under 35 U.S.C §112, first paragraph, as failing to comply with the written description requirement. Applicants' representative directs the Examiner's attention to U.S. Patent Application 10/220,419 incorporated by reference in the subject application. In particular, paragraphs 107, 114 and 231 of the incorporated application provide support for claim 56 in accordance with 37 C.F.R. §1.57. Therefore, it is respectfully requested that this rejection be withdrawn.

#### **II. Rejection of Claims 1-4, 7, 8, 13, 15, 17, 18, 19, 21-46, 48-55 and 57-62 Under 35 U.S.C. §102(e)**

Claims 1-4, 7, 8, 13, 15, 17, 18, 19, 21-46, 48-55 and 57-62 stand rejected under 35 U.S.C. §102(e) as being anticipated by Heinzl *et al.* (U.S. 2004/0225718). It is respectfully requested that this rejection be withdrawn for at least the following reasons. Heinzl *et al.* does not disclose, teach or suggest each and every limitation of the subject claims.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "*each and every element as set forth in the claim is found*, either expressly or inherently described, *in a single prior art reference.*" In re Robertson, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (quoting Verdegaal Bros., Inc. v. Union Oil Co., 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)) (emphasis added). "*The identical invention must be shown in as complete detail as is contained in the ...*

*claim.*” Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

The claimed subject matter relates to delivering messages in a communication system based upon a user’s current situation and bounded deferral policies. (See Summary). In particular, independent claim 1 (and similarly independent claims 27, 57 and 58) recites a *system that facilitates conveying notifications, comprising a component to determine a time period to deliver information based upon an urgency of the information, the time period is a bounded deferral period that relates to a deadline for making a user aware of a message containing information of value to the user, wherein a tolerance or deferral is dependent on the urgency of the information and a notification component to convey the information based at least in part upon endpoint sensing of at least one device and the time period.* Heinzl *et al.* does not disclose, teach or suggest such aspects.

Heinzl *et al.* relates to selecting or filtering alerts relevant for messaging to specific recipients, creating alert notification messages and sending the messages through various message channels. (See Abstract). Alert messages from several business applications are collected. Alert notification messages are generated from the alert messages and the alert notification messages are sent to recipients through various message channel. (See paragraph 39). Profiles can be established to determine how messages are sent through the channels. For example, a minimum age and/or maximum age can be established such that alerts that are too new or too old will not be sent. (See paragraph 112). Further, the choice of message channel can be dependent on the time of day, week, etc. (See paragraph 98). Thus, while Heinzl *et al.* considers time as a factor, it utilizes time to determine bars to delivering messages because it is too new or old and/or because the message channel is unavailable. Heinzl *et al.* is silent regarding a bounded deferral period that relates to a deadline for making a user aware of a message containing information of value to the user as recited by the subject claims.

In view of at least the foregoing, it is respectfully submitted that Heinzl *et al.* does not disclose, teach or suggest each and every limitation recited by claims 1, 27, 57 and 58 (and the subsequent dependent claims which depend there from). Accordingly, this rejection should be withdrawn and the claims allowed.

**III. Rejection of Claims 5 and 6 Under 35 U.S.C. §103(a)**

Claims 5 and 6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Heinzel *et al.* in view of Maruyama *et al.* (U.S. 2003/004635). It is respectfully requested that this rejection be withdrawn for at least the following reason. Claims 5 and 6 depend from independent claim 1, and Maruyama *et al.* does not rectify the deficiencies presented by Heinzel *et al.* with respect to independent claim 1 as discussed above. Accordingly, withdrawal of this rejection is respectfully requested.

**IV. Rejection of Claims 9, 10, 14, 16, 20 and 47 Under 35 U.S.C. §103(a)**

Claims 9, 10, 14, 16, 20 and 47 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Heinzel *et al.* in view of Emens *et al.* (U.S. 6,591,279). Withdrawal of this rejection is requested for at least the following reasons. The cited references do not teach or suggest each and every limitation of the subject claims. Claims 9, 10, 14, 16 20 depend from independent claim 1 and claim 47 depends from independent claims 27. Emens *et al.* fails to cure the aforementioned deficiencies of Heinzel *et al.* with respect to independent claims 1 and 27. Accordingly, it is respectfully requested that this rejection be withdrawn.

**V. Rejection of Claims 11 and 12 Under 35 U.S.C. §103(a)**

Claims 11 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Heinzel in view of Gusler *et al.* (US 2005/0050143). It is respectfully requested that this rejection be withdrawn for at least the following reason. Claims 11 and 12 depend from independent claim 1, and Gusler *et al.* does not rectify the deficiencies presented by Heinzel *et al.* with respect to independent claim 1 as discussed above. Accordingly, withdrawal of this rejection is respectfully requested.

**CONCLUSION**

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [MSFTP453USA].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant undersigned representative at the telephone number below.

Respectfully submitted,

AMIN, TUROC & CALVIN, LLP

/Himanshu S. Amin/

Himanshu S. Amin

Reg. No. 40,894

AMIN, TUROC & CALVIN, LLP  
24<sup>TH</sup> Floor, National City Center  
1900 E. 9<sup>TH</sup> Street  
Cleveland, Ohio 44114  
Telephone (216) 696-8730  
Facsimile (216) 696-8731